

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Edwin A. Hallberg
Serial No.: 10/622603
Filed: 7/18/2003
Group Art Unit: 3635
Examiner: Nguyen, Chi Q.
Title: Variable Height Fold and Roll Staging and Method of Assembling Same

APPEAL BRIEF

Mail Stop - Appeal Brief
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Subsequent to the filing of the Notice of Appeal on 20 December 2007, Appellant hereby submits this brief. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for the appeal brief fee. Any additional fees or credits may be charged or applied to Deposit Account No. 50-1482 in the name of Carlson Gaskey & Olds.

REAL PARTY IN INTEREST

The real party in interest is StageRight Corporation, the assignee of the entire right and interest in this application.

RELATED APPEALS AND INTERFERENCES

None

STATUS OF CLAIMS

Claims 1-10 and 12-14 stand finally rejected under §102(b) as anticipated by *Risdall* (US 3,080,833). Claim 11 was previously indicated as allowable.

Claims 15-20 stand finally rejected under 35 U.S.C. §103(a) as obvious in view of *Risdall*.

Claims 1-10 and 12-20 are appealed.

STATUS OF AMENDMENTS

All amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTERSummary of Independent Claim 1

1. A portable staging assembly 10 comprising a first platform panel 12 having an upper surface and a lower surface, said platform panel 12 pivotally connected to a second platform panel 14 having an upper surface and a lower surface, the second platform panel 14 further being pivotally connected to a base assembly 20 [page 6, lines 6-8] wherein when the first and second platform panels 12, 14 are in a position for use substantially coplanar and parallel to a ground surface [page 8, lines 21-23 - page 9, line 1] the upper surface of the first platform panel 12 and the upper surface of the second platform panel 14 face upward and the second platform panel 14 is supported by a plurality of ground

engaging supports 60 and the first platform panel 12 is supported by at least one ground engaging support 40 and by the second platform panel 14 [page 8, lines 10-12], and wherein when the first and second platform panels 12, 14 are pivoted to a storage position substantially perpendicular to the ground surface [page 6, lines 8-10] the respective upper surfaces of the first and second platform panels 12, 14 face one another.

The invention of claim 1 is generally directed to a portable staging assembly 10 as shown in Figures 1 and 3. The assembly includes a first platform panel 12 that has an upper surface and a lower surface. The first platform panel 12 pivotally connects to a second platform panel 14 that also has an upper surface and a lower surface. The second platform panel 14 is pivotally connected to a base assembly 20. When the panels 12, 14 are in a position for use, as shown in Figure 3, the panels 12, 14 are substantially coplanar and parallel to a ground surface and the upper surfaces of the panels 12, 14 face upward [page 9, lines 12-15]. Also in the position for use, the second panel 14 is supported by a plurality of ground engaging supports 60, and the first panel 12 is supported by at least one ground engaging support 40 and by the second panel 14. When the panels 12, 14 are pivoted to a storage position substantially perpendicular to the ground surface, as shown in Figure 3, the respective upper surfaces of the panels 12, 14 face one another. This basic invention is set forth in claim 1.

Summary of Independent Claim 15

15. A method of assembling a portable stage comprising the steps of:

rolling across a ground surface a portable staging assembly 10 having first

and second platform panels 12, 14, said platform panels 12, 14 each having an upper surface and a lower surface, said platform panels 12, 14 pivotally connected [page 6, lines 6-8 and page 9, lines 16-19] to each other with the platform panels 12, 14 in a storage position substantially perpendicular to the ground surface [page 6, lines 8-10] wherein the respective upper surfaces of the platform panels 12, 14 face one another, and further having the second platform panel 14 pivotally connected to a base assembly 20 having wheels 24 [page 6, lines 8-12],

while maintaining the second platform panel 14 in the storage position, pivoting the first platform panel 12 from the storage position to a position at an acute angle or parallel to the ground surface wherein the first platform panel 12 is supported in part by at least one ground engaging support 40 connected to the first platform panel 12 [page 10, lines 1-10], and

pivoting the second platform panel 14 to a position substantially parallel to the ground surface wherein it is supported by a plurality of ground engaging supports 60 connected to the second platform panel 14 [page 10, lines 12-15] while simultaneously locating the first platform panel 12 in a position substantially parallel to the ground surface wherein the first platform panel 12 is supported by the at least one ground support 40 connected to the first platform panel 12 and by the second platform panel 14 and the respective upper surfaces of the platform panels face upward [page 10, lines 8-10].

With reference to Figures 5A-5E, claim 15 is generally directed to a method of assembling a portable stage. The method's steps include rolling across a ground surface a

portable staging assembly 10 as shown in Figure 5A. The assembly includes first and second platform panels 12, 14, which each have an upper surface and a lower surface. The panels 12, 14 pivotally connect to each other with the panels 12, 14 in a storage position substantially perpendicular to the ground surface. The respective upper surfaces of the panels 12, 14 face one another in the storage position of Figure 5A. The second platform panel 14 also is pivotally connected to a base assembly 20 having wheels 24. The method maintains the second panel 14 in the storage position and pivots the first panel 12 from the storage position to a position at an acute angle or parallel to the ground surface, as shown in Figure 5C. The first panel 12 is supported in part by at least one ground engaging support 40 connected to the first panel 12. The method pivots the second panel 14 to a position substantially parallel to the ground surface, as shown in Figures 5D and 5E. In these positions, the panel 14 is supported by a plurality of ground engaging supports 60 connected to the second panel 14. In this example, pivoting the panel 14 locates the first panel 12 in a position substantially parallel to the ground surface. In this position, the first panel 12 is supported by the at least one ground support 40 connected to the first platform panel 12 and by the second platform panel 14. In this position, the respective upper surfaces of the platform panels 12, 14 face upward.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. Are claims 1-10 and 12-14 properly rejected under 35 U.S.C. §102(b) as anticipated by *Risdall*?

B. Are claims 15-20 properly rejected under 35 U.S.C. §103(a) as obvious in view of *Risdall*?

ARGUMENTS

A. Are claims 1-10 and 12-14 properly rejected under 35 U.S.C. §102(b) as anticipated by *Risdall*?

Claims 1-10 and 12-14

Claims 1-10 and 12-14 stand rejected under 35 U.S.C. §102(b) as anticipated by United States Patent No. 3,080,833 to *Risdall*. Claims 2-10 and 12-14 depend from independent claim 1. Claims 1-10 and 12-14 stand together. This rejection is improper because *Risdall* does not disclose Appellant's invention.

Independent claim 1 recites “when the first and second platform panels are pivoted to a storage position substantially perpendicular to the ground surface the respective upper surfaces of the first and second platform panels face one another.” The examiner interprets portions 12 and 14 in *Risdall* as respectively teaching Appellant's claimed first and second platform panels. The rejection does not establish anticipation because upper surfaces of portions 12 and 14 do not face one another as in the claimed invention.

Figure 2 from *Risdall* shows a foldable table having a table top 10 separated into two portions 12 and 14. The below labels show the respective upper surfaces and lower surfaces of the portions 12 and 14.

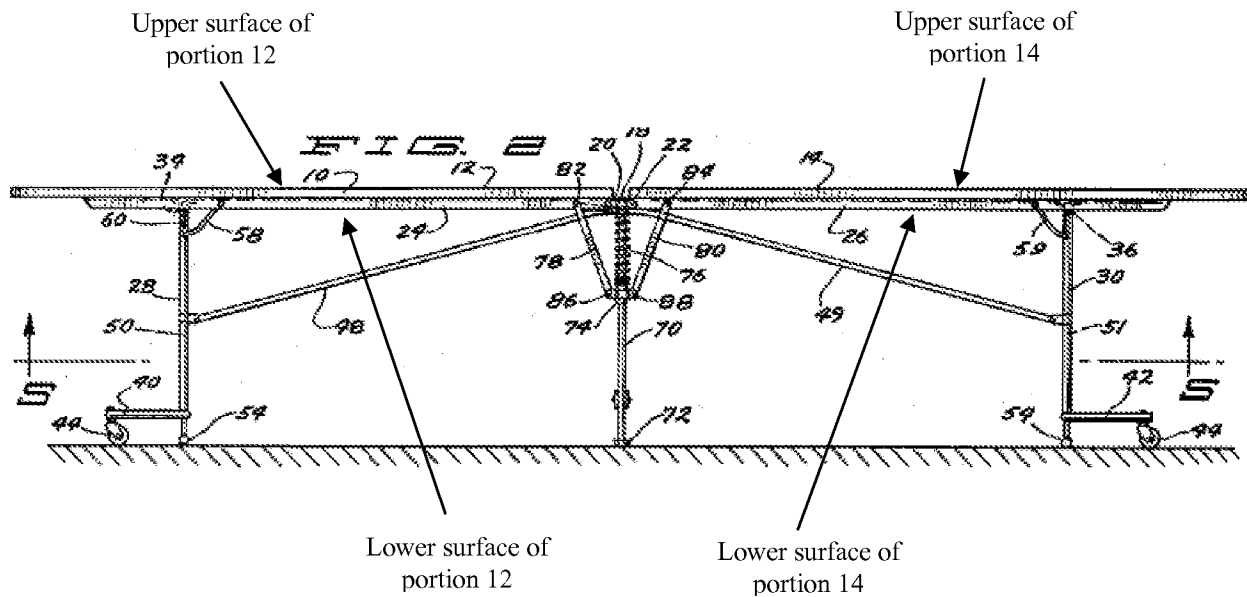
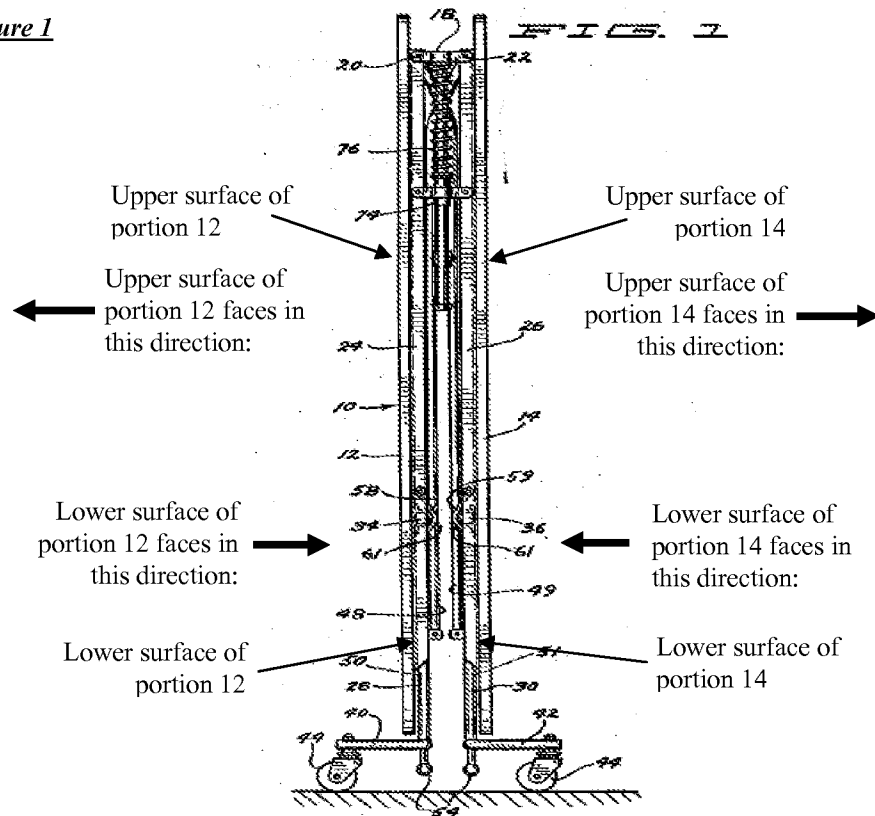
RISDALL Figure 2

Figure 1 of *Risdall* shows the foldable table in the folded condition. As shown below, the upper surfaces of the portions 12 and 14 do not face one another in the folded condition as recited in Appellant's claim 1. The upper surfaces of the portions 12 and 14 instead face outwardly and away from each other. In *Risdall*, the lower surfaces face each other when the table is in the folded condition.

RISDALL Figure 1

For at least this reason, *Risdall* does not meet the limitations of claim 1. Accordingly, Appellant respectfully requests that that the rejection be withdrawn. As claims 2-10 and 12-14 depend from claim 1, the rejection of these claims is also improper. Claims 1-10 and 12-14 are patentable for at least this reason.

B. Are claims claims 15-20 properly rejected under 35 U.S.C. §103(a) as obvious in view of *Risdall*?

Claims 15-20

Claims 15-20 stand rejected under 35 U.S.C. §103(a) as unpatentable over United States Patent No. 3,080,833 to *Risdall*. Claims 16-20 depend from claim 15. Claims 15-20 stand

together. Claims 15-20 are not obvious because the proposed combination does not teach the Appellant's invention.

The proposed combination is shown in the below excerpt from the final office action:

Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 3,080,833 to Risdall.

Risdall teaches the basic structural elements for the foldable stage as set forth above. However, Risdall does not teach expressly the method steps from storage position to utilizing position as claimed by the applicant, examiner considers this to be the obvious method step of setting up device because in utilizing a foldable stage, one must obviously roll to and position on applicable place, disengage platform panels retainers, permit platform panels straight, lower ground engaging members or legs and adjust desirable highs. Risdall's disclosure would be motivated to follow these steps to facilitate assembly of a foldable stage as shown in Figs. 1-2, and 4.

Appellant's independent claim 15 recites "said platform panels pivotally connected to each other with the platform panels in a storage position substantially perpendicular to the ground surface wherein the respective upper surfaces of the platform panels face one another." The Examiner states that *Risdall* teaches the "basic structural elements" for claims 15-20, but the rejection fails to consider that "the respective upper surfaces of the platform panels face one another" in claim 15. This argument was also made in response to the first ground of rejection.

Accordingly, the proposed combination does not teach the features of Appellant's claim 15, and therefore claim 15 is not obvious. Claim 15 is patentable for at least this reason. Claims 16-20 depend from claim 15, and are therefore also patentable.

CLAIM APPENDIX

1. A portable staging assembly comprising a first platform panel having an upper surface and a lower surface, said platform panel pivotally connected to a second platform panel having an upper surface and a lower surface, the second platform panel further being pivotally connected to a base assembly wherein when the first and second platform panels are in a position for use substantially coplanar and parallel to a ground surface the upper surface of the first platform panel and the upper surface of the second platform panel face upward and the second platform panel is supported by a plurality of ground engaging supports and the first platform panel is supported by at least one ground engaging support and by the second platform panel, and wherein when the first and second platform panels are pivoted to a storage position substantially perpendicular to the ground surface the respective upper surfaces of the first and second platform panels face one another.

2. The portable staging assembly of claim 1, wherein the first platform panel is adapted to be pivoted from a storage position toward the ground surface while the second platform panel is in a storage position substantially perpendicular to the ground surface.

3. The portable staging assembly of claim 1, further comprising a first platform panel restraint to selectively prevent the first platform panel from pivoting relative to the second platform panel when the first and second platform panels are in the storage position substantially perpendicular to the ground surface.

4. The portable staging assembly of claim 3, wherein the first platform panel restraint also locks the second platform panel in the storage position.

5. The portable staging assembly of claim 4, wherein a second platform panel restraint prevents the second platform panel from being pivoted to a position substantially parallel to the ground surface if the first platform panel is still in the storage position.

6. The portable staging assembly of claim 5, wherein the second platform panel restraint is connected to the first platform panel.

7. The portable staging assembly of claim 6, wherein the second platform panel restraint engages the base assembly.

8. The portable staging assembly of claim 1, wherein the ground engaging supports are adjustable in length.

9. The portable staging assembly of claim 8, wherein the adjustable ground engaging supports comprise telescopic leg assemblies.

10. The portable staging assembly of claim 9, wherein each telescopic leg assembly further comprises a first tube and a second tube that slideably engages the first tube.

11. A portable staging assembly comprising a first platform panel having an upper surface and a lower surface, said platform panel pivotally connected to a second platform panel having an upper surface and a lower surface, the second platform panel further being pivotally connected to a base assembly wherein when the first and second platform panels are in a position for use substantially coplanar and parallel to a ground surface the upper surface of the first platform panel and the upper surface of the second platform panel face upward and the second platform panel is supported by a plurality of ground engaging supports and the first platform panel is supported by at least one ground engaging support and by the second platform panel, wherein when the first and second platform panels are pivoted to a storage position substantially perpendicular to the ground surface the respective upper surfaces of the first and second platform panels face one another, wherein the ground engaging supports are adjustable in length, wherein the adjustable ground engaging supports comprised telescopic leg assemblies, wherein each telescopic leg assembly further comprises a first tube and a second tube that slideably engages the first tube; and a storage rack to hold the second tube of each telescopic leg assembly when in a storage position.

12. The portable staging assembly of claim 1, wherein the base assembly further comprises wheels.

13. The portable staging assembly of claim 12, wherein the wheels connected to the base assembly comprise caster type wheels.

14. The portable staging assembly of claim 1, wherein the base assembly further comprises a panel stop to engage the second platform panel and assist in holding the second platform panel in the storage position after the first panel has been pivoted to a position at an acute angle or substantially parallel to the ground surface.

15. A method of assembling a portable stage comprising the steps of:

rolling across a ground surface a portable staging assembly having first and second platform panels, said platform panels each having an upper surface and a lower surface, said platform panels pivotally connected to each other with the platform panels in a storage position substantially perpendicular to the ground surface wherein the respective upper surfaces of the platform panels face one another, and further having the second platform panel pivotally connected to a base assembly having wheels,

while maintaining the second platform panel in the storage position, pivoting the first platform panel from the storage position to a position at an acute angle or parallel to the ground surface wherein the first platform panel is supported in part by at least one ground engaging support connected to the first platform panel, and

pivoting the second platform panel to a position substantially parallel to the ground surface wherein it is supported by a plurality of ground engaging supports connected to the second platform panel while simultaneously locating the first platform panel in a position substantially parallel to the ground surface wherein the first platform panel is supported by the at least one ground support connected to the first platform panel and by the second platform panel and the respective upper surfaces of the platform panels face upward.

16. The method of claim 15, further comprising the step of moving the at least one ground engaging support connected to the first platform panel from a storage position substantially parallel to the first platform panel to a use position to provide support in a direction perpendicular to the first platform panel prior to pivoting the first platform panel to a position at an acute angle or parallel to the ground surface.

17. The method of claim 15, further comprising the step of adjusting the length of the plurality of ground engaging supports connected to the second platform panel to be of comparable length to the at least one ground engaging support connected to the first platform panel prior to pivoting the second platform panel to a position substantially parallel to the ground surface.

18. The method of claim 15, further comprising the step of disengaging a first platform panel restraint prior to pivoting the first platform panel from the storage position to the position at an acute angle or parallel to the ground surface.

19. The method of claim 18, further comprising the step of automatically disengaging a second platform panel restraint when the first platform panel is pivoted to the position at an acute angle or parallel to the ground surface, permitting the second platform panel to be pivoted to a position substantially parallel to the ground surface.

20. The method of claim 15, further comprising the step of automatically lifting the base assembly from the ground surface as the second platform panel is pivoted to a position substantially parallel to the ground surface.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None